

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION**

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| MARTHA ZEPEDA OLIVARES, |) | CASE NO. 1:23-cv-01575-JLT-SAB |
| individually and on behalf of the ESTATE OF) |) | |
| MAXIMILIANO SOSA, JR.; |) | PLAINTIFFS' NOTICE OF MOTION |
| MAXIMILIANO SOSA, SR., |) | AND MOTION TO COMPEL |
| |) | COMPLIANCE WITH SUBPOENA |
| Plaintiffs, |) | SERVED ON NONPARTY MARIA SOSA |
| |) | ON NOVEMBER 11, 2023; RELATED |
| v. |) | REQUEST FOR MONETARY |
| |) | SANCTIONS; SUPPORTING |
| |) | DECLARATION AND EXHIBITS |
| CITY OF FRESNO; UNKNOWN LAW) |) | |
| ENFORCEMENT OFFICERS, and DOES 1-) |) | Hearing: January 3, 2024 |
| 30 |) | Time: 10:00 a.m. |
| |) | Courtroom: 9, 6th Floor |
| Defendants. |) | Hon. Stanley A. Boone, Magistrate Judge |

TO THE HONORABLE COURT:

Plaintiffs Martha Zepeda Olivares, individually and on behalf of the Estate of Maximiliano Sosa, Jr. and Maximiliano Sosa, Sr., through their counsel of record, hereby give notice of this motion to compel compliance with the subpoena served on November 11, 2023 on nonparty Maria Sosa. The compliance date for said subpoena was November 21, 2023. A copy of the subpoena is attached as Exhibit A, and Ms. Sosa's subsequent objection is attached as Exhibit B, and plaintiffs' response to said objection and invitation to meet and confer is attached as Exhibit C.

In short, this is a case filed under 42 U.S.C. § 1983 related to a deadly force incident that

1 occurred in the City of Fresno on November 4, 2023. On November 11, 2023, plaintiffs served
2 the subject subpoena both electronically and, on November 13, 2023, in person. The subpoena
3 seeks information which clearly is relevant to the subject dispute, i.e., the decedent's electronic
4 devices used near the time of his death, which are currently in the possession of Ms. Sosa, for
5 purposes of a forensic download and examination.

6 Ms. Sosa, through her counsel, objects to the production of the devices on grounds that
7 appear to lack merit, i.e., that the phone data is protected by the attorney-client privilege or
8 work product doctrine, that the subpoena would cause undue burden/expense, and that service
9 was improper. Plaintiffs note that Ms. Sosa has not responded further after her objections were
10 challenged.

11 Plaintiffs has complied with Eastern District Local Rule 251 by completing the meet and
12 confer process, as required by Local Rule 251(b), and, no later than 14 days before the noticed
13 hearing date of January 3, 2024, file the Joint Statement of Discovery Dispute required by Local
14 Rule 251(c).

15 In addition to requesting compliance with the subject subpoena, plaintiffs' counsel
16 provides notice of his intent to seek monetary sanctions, since Ms. Sosa's position on the
17 subpoena does not appear to be substantially justified. This issue will also be the subject of the
18 required meet and confer process and joint statement.

19 Plaintiffs are of course amenable to participating in any and all informal discovery
20 efforts the Court may suggest or require, but, given the potentially evanescent nature of the
21 information sought, they request that any such efforts not delay the hearing date.

22 Dated: December 3, 2023

/s/ Kevin G. Little

Kevin G. Little

23 Attorneys for Plaintiffs Martha Zepeda Olivares,
24 individually and on behalf of the Estate of
25 Maximiliano Sosa, Jr. and Maximiliano Sosa, Sr.
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